

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GARY SMITH,

Plaintiff(s),

vs.

21ST CENTURY ASSURANCE COMPANY,

Defendant(s).

Case No. 2:15-cv-01770-APG-NJK

ORDER

(Docket No. 21)

Pending before the Court is Defendant's motion for dismissal sanctions and attorneys' fees and costs. Docket No. 21. No response has been filed. The Court finds the motion properly decided without oral argument. *See* Local Rule 78-2.

Concurrently herewith, the undersigned is issuing a report and recommendation that Plaintiff's complaint be dismissed with prejudice on other grounds. Accordingly, the motion for dismissal sanctions is **DENIED** as moot.

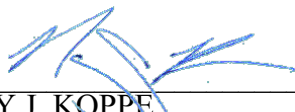
With respect to the request for attorneys' fees and costs, the motion provides insufficient evidence as to the hours expended and the prevailing market rate in the community. *Cf. Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). As a result, the Court declines to decide at this time whether Defendant is entitled to attorneys' fees and costs and, if so, the amount that should be awarded. The motion for attorneys' fees and costs is therefore **DENIED** without prejudice.

Defendant is entitled to renew the request for attorneys' fees and costs arising out of Plaintiff's alleged discovery violations. Given the small amount of fees and costs sought, and the potential

1 obstacles to collecting on any such award, it appears that such a game is not worth the candle. That is
2 ultimately a decision for Defendant, however. Any renewed motion for attorneys' fees must be filed no
3 later than April 11, 2016.

4 IT IS SO ORDERED.

5 DATED: April 1, 2016

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10 NANCY J. KOPPE
11 United States Magistrate Judge
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